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9 Attorneys for Plaintiff,  
10 DIGITAL VERIFICATION SYSTEMS, LLC

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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

DIGITAL VERIFICATION SYSTEMS,  
LLC,

*Plaintiff,*

V.

ENCYRO, INC.,

*Defendant.*

Case No. 5:22-CV-00686-JWH-SP

Judge: Hon. John W. Holcomb  
Courtroom: 9D

**PLAINTIFF'S ANSWER AND  
DEFENSES TO (D.I. 14) DEFENDANT'S  
COUNTERCLAIMS**

**JURY TRIAL DEMANDED**

Plaintiff, Digital Verification Systems, LLC (hereinafter, "DVS" or "Plaintiff"), by and through its undersigned counsel, hereby respectfully files, including pursuant to FEDERAL RULE OF CIVIL PROCEDURE 12, this *Plaintiff's Answer and Counterclaims to (D.I. 14) Defendant's Counterclaims*, and, in support thereof, without admission of the legal sufficiency thereof and responding only to the factual allegations therein, states as follows:

**PARTIES, VENUE, AND JURISDICTION**

1  
2 1. DVS lacks sufficient knowledge regarding the allegations contained in ¶ 1 and,  
3 therefore, denies same.

4 2. Admitted.

5 3. Admitted.

6 4. Admitted.

7 5. DVS admits that venue is proper. DVS denies any remaining allegations in ¶ 5.

8 **COUNTERCLAIM NO. 1:**

9 **(Non-Infringement)**

10 6. Admitted.

11 7. DVS admits that at least some of the contents of encyro.com were reviewed. DVS  
12 lacks sufficient knowledge regarding the remaining allegations contained in ¶ 7 and, therefore,  
13 denies same.

14 8. No response is required as the referenced document and/or citation speaks for itself.  
15 DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon,  
16 ¶ 8, either alone, or in combination with other paragraphs.

17 9. No response is required as the referenced document and/or citation speaks for itself.  
18 DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon,  
19 ¶ 9, either alone, or in combination with other paragraphs.

20 10.No response is required as the referenced document and/or citation speaks for itself.  
21 DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon,  
22 ¶ 10, either alone, or in combination with other paragraphs.

23 11.No response is required as the referenced document and/or citation speaks for itself.  
24 DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon,  
25 ¶ 11, either alone, or in combination with other paragraphs.

26 12.Denied.

27 13.Denied.

28 14.Denied.

**COUNTERCLAIM NO. 2:****(Invalidity §§ 102, and 103)**

15.No response is required as the referenced document and/or citation speaks for itself. Otherwise, to the extent a response is required, admitted only that the listed Filing or 371(c) date for the '860 patent is January 2, 2008. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 15, either alone, or in combination with other paragraphs. DVS denies any remaining allegations in ¶ 15.

16.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 16 and, therefore, denies same.

17.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 17 and, therefore, denies same.

18.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 18 and, therefore, denies same.

19.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 19 and, therefore, denies same.

20.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 20 and, therefore, denies same.

21.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 21 and, therefore, denies same.

22.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 22 and, therefore, denies same.

23.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 23 and, therefore, denies same.

24.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 24 and, therefore, denies same.

25.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 25 and, therefore, denies same.

26.No response is required as the referenced document and/or citation speaks for itself.

Otherwise, to the extent a response is required, admitted only that, on page 6 of its opinion in its Decision on Appeal dated November 28, 2014, the PTAB's stated "Accordingly, the Examiner has not persuasively explained how Caphyon's digital certificate with a validity period teaches 'within *only* a single electronic file' (emphasis added)". DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 26, either alone, or in combination with other paragraphs. DVS lacks sufficient knowledge regarding the remaining allegations contained in ¶ 26 and, therefore, denies same.

27.DVS lacks sufficient knowledge regarding the allegations contained in ¶ 27 and, therefore, denies same.

28.Denied.

29.Denied.

30.Denied.

### **COUNTERCLAIM NO. 3:**

#### **(Section 101 Ineligibility)**

31.No response is required as the referenced document and/or citation speaks for itself. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 31, either alone, or in combination with other paragraphs.

32.No response is required as the referenced document and/or citation speaks for itself. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 32, either alone, or in combination with other paragraphs.

33.No response is required as the referenced document and/or citation speaks for itself. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 33, either alone, or in combination with other paragraphs.

34.No response is required as the referenced document and/or citation speaks for itself. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 34, either alone, or in combination with other paragraphs.

35.No response is required as the referenced document and/or citation speaks for itself. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon,

¶ 35, either alone, or in combination with other paragraphs.

36.No response is required as the referenced document and/or citation speaks for itself. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 36, either alone, or in combination with other paragraphs.

37.No response is required as the referenced document and/or citation speaks for itself. Otherwise, to the extent a response is required, admitted only that the statement in ¶ 36 was made in the applicant's April 5, 2011 response to the February 1, 2011 Non-Final Office Action as part of the applicant's arguments in the section entitled "Claims 1-5, 7-8, 12-13, 15-35, 40-41, and 44 are Rejected Under 35 U.S.C. § 103 for Obviousness Based Upon Wheeler, et al., U.S. Patent No. 6,978,369 (Hereinafter Wheeler), in View of Caphyon, 'The Digital Signature Media Tab' (Hereinafter Caphyon)". DVS denies any remaining allegations in ¶ 37. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 37, either alone, or in combination with other paragraphs. DVS lacks sufficient knowledge regarding the remaining allegations contained in ¶ 37 and, therefore, denies same.

38.No response is required as the referenced document and/or citation speaks for itself. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 38, either alone, or in combination with other paragraphs.

39.No response is required as the referenced document and/or citation speaks for itself. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 39, either alone, or in combination with other paragraphs.

40.No response is required as the referenced document and/or citation speaks for itself. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 40, either alone, or in combination with other paragraphs.

41.No response is required as the allegations in ¶ 41 comprise a legal conclusion. Otherwise, to the extent a response is required, admitted only that patent claims comprising hardware and/or software are subject to eligibility under 35 U.S.C. § 101. DVS denies any allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 41, either alone, or in combination with other paragraphs. DVS lacks sufficient knowledge regarding the

1 remaining allegations contained in ¶ 41 and, therefore, denies same.

2 42. Admitted.

3 43. No response is required as the referenced document and/or citation speaks for itself.  
4 Otherwise, to the extent a response is required, admitted only that the statements in the quoted  
5 section appear on pages 4 and 5 of the PTAB's opinion in its November 28, 2014 Decision on  
6 Appeal. DVS denies any allegations of non-infringement and/or invalidity contained in, or  
7 based upon, ¶ 43, either alone, or in combination with other paragraphs. DVS lacks sufficient  
8 knowledge regarding the remaining allegations contained in ¶ 43 and, therefore, denies same.

9 44. No response is required as the allegations in ¶ 44 comprise a legal conclusion.  
10 Otherwise, to the extent a response is required, admitted only that patent claims comprising  
11 hardware and/or software are subject to eligibility under 35 U.S.C. § 101. DVS denies any  
12 allegations of non-infringement and/or invalidity contained in, or based upon, ¶ 44, either  
13 alone, or in combination with other paragraphs. DVS lacks sufficient knowledge regarding the  
14 remaining allegations contained in ¶ 44 and, therefore, denies same.

15 45. No response is required as the referenced document and/or citation speaks for itself.  
16 Otherwise, to the extent a response is required, admitted only that the PTAB issued its opinions  
17 in its Decision on Appeal on November 28, 2014. DVS denies any allegations of non-  
18 infringement and/or invalidity contained in, or based upon, ¶ 45, either alone, or in  
19 combination with other paragraphs. DVS lacks sufficient knowledge regarding the remaining  
20 allegations contained in ¶ 45 and, therefore, denies same.

21 46. No response is required as the allegations in ¶ 46 comprise a legal conclusion.  
22 Otherwise, to the extent a response is required, DVS denies any allegations of non-  
23 infringement and/or invalidity contained in, or based upon, ¶ 46, either alone, or in  
24 combination with other paragraphs. DVS denies any remaining allegations in ¶ 46.

25 **REQUEST FOR JURY TRIAL**

26 To the extent a response is required, DVS admits that Encyro has requested a jury trial  
27 for all issues so triable. DVS denies any remaining allegations in this paragraph.  
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**PRAYER FOR RELIEF**

To the extent a response is required, DVS denies that Encyro is entitled to any of the relief requested.

Dated: April 15, 2022

Respectfully submitted,

PALAVAN & MOORE, PLLC

/s/ Shea N. Palavan

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*Attorneys for Plaintiff,*  
**DIGITAL VERIFICATION SYSTEMS,  
LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document, including via an NEF, via the Court's CM/ECF system per LOCAL RULE 5-4.7.2, and this Court's Rules, Orders, and Procedures. Any other counsel of record will be served by electronic mail, facsimile transmission, and/or first-class mail on this same date.

Dated: July 8, 2022

/s/ Shea N. Palavan  
Shea N. Palavan